IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.1296 of 1996

In

SUIT NO.398 OF 1974

Mahendra P.Shah .Appellant

versus

Canara Bank ..Respondent

(Orig.Plaintiff)

and

Bombay Alloys & Castings & ors ..Respondents

(Orig.Defendant)

...

Mr.Madhav Jamdar for appellant.

Mr.A.Y. Bookwala a/w Sunil Shukla i/b Shukla & Shukla for the respondent no.1.

Ms.Sumedha Rao for the respondent no.3.

Mr.R.P. Sabban for the applicant in Chamber Summons No.1051/05

CORAM : R.M. LODHA AND

D.G. KARNIK, JJ

DATED : 18th November, 2005

P.C.:

. Heard Mr.M.J. Jamdar, the learned counsel for the appellant, Mr.A.Y. Bookwala, the learned counsel for the respondent no.1, Ms.Sumedha Rao, the learned counsel for the respondent no.3. and the learned counsel for K.D. Corporation.

2. After arguing the matter for some time, the learned counsel for the parties agreed that the appeal may be disposed of by the following order :-

i) The impugned order dated 15th October 1996 passed on the Commissioner’s report dated 12th March 1996 is set aside.

(ii) The Commissioner for taking accounts shall make fresh report to the Judge taking such matters for confirmation of sale in favour of M/s.K.D. Corporation.

(iii) The notice of such report shall be given to the present

appellant - Mahendra P. Shah, the present Respondent No.1 - Canara Bank, the judgement debtor (the Respondent no.3) and M/s.K.D. Corporation (the auction purchaser).

(iv) All contentions of the parties are kept open to be agitated at the time of consideration of such report.

3. We order accordingly. No costs.

(R.M. LODHA, J)

(D.G. KARNIK, J)